

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

AUG 28 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM ALLOCCA et al.

Application 09/547,540

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 21, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that an Examiner's Answer was mailed May 2, 2006, in response to the Appeal

Brief filed December 8, 2003 and the Supplemental Appeal Brief filed June 2, 2004.

Page 4 of the Examiner's Answer states that “[s]ince the appeal brief reinstated on 6/2/2004 complies with the old format set forth in [37] CFR 1.192 Evidence Relied Upon is not required.” While this is true, § 1208 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 2, May 2004) was in effect when the Answer was mailed and states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(9) *References of Record.* A listing of the references of record relied on, and, in the case of nonpatent references, the relevant page or pages.

The claim rejections are listed as follows:

1. Claims 1-7, 9-10, 13, 15-27, 29-33, 35, 37-38, 40-41, 50-65, 67-68, and 129 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman et al. (US Patent 5,960,411), hereinafter referred to as Hartman, in view of Yamada (US Patent 6,336,100 B1) [page 5];
2. Claims [sic] 8, is rejected under 35 U.S.C. 103(a) as being obvious over Hartman/Yamada in view of Official Notice [page 6]; and

3. Claims 14, and 36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman/Yamada in view of Holland et al. (US Patent 6,493,742), hereinafter referred to as Holland [page 6].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for submission of a revised Examiner's Answer which corrects the "References of Record" (now entitled "Evidence Relied Upon") section; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By:


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